MONTANA LEGISLATIVE HISTORY

Chapter 569 19 89

Bill H _____ S 261 Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Local Government		
Hearing Date(s)	Mar 13	✓ C	Hearing Date(s)	Feb 09	✓ C
	Mar 15	✓ C		Feb 05	✓ C
		C			C
		C			C
Date Out	Mar 16	✓ C		Feb 10	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

	3/14	SIGNED BY SPEAKER		
	3/15	TRANSMITTED TO GOVERNOR		
	3/18	SIGNED BY GOVERNOR		
		CHAPTER NUMBER 124 EFFECTIVE DATE: 3/18/89		

SB 260 INTRODUCED BY BROWN, ROBERT, ET AL.
REGULATE INTRODUCTION, PROLIFERATION, AND SPREAD OF UNDESIRABLE FISH
BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

	1/27	INTRODUCED		
	1/27	REFERRED TO FISH & GAME		
	1/28	FISCAL NOTE REQUESTED		
	2/03	FISCAL NOTE RECEIVED		
	2/04	FISCAL NOTE PRINTED		
	2/14	HEARING		
	2/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
	2/17	2ND READING PASSED	38	0
	2/20	3RD READING PASSED	50	0
		TRANSMITTED TO HOUSE		
	2/21	REFERRED TO FISH & GAME		
	3/14	HEARING		
	3/15	COMMITTEE REPORT--BILL CONCURRED		
	3/18	2ND READING CONCURRED	88	0
	3/20	3RD READING CONCURRED	96	0
		RETURNED TO SENATE		
	3/27	SIGNED BY PRESIDENT		
	3/27	SIGNED BY SPEAKER		
	3/28	TRANSMITTED TO GOVERNOR		
	3/29	SIGNED BY GOVERNOR		
		CHAPTER NUMBER 376		
		EFFECTIVE DATE: 03/29/89 (S14, 16)		
		EFFECTIVE DATE: 10/01/89 (S1-13, 15)		

SB 261 INTRODUCED BY BISHOP, ET AL.
EXEMPT CERTAIN BOUNDARY LINE RELOCATIONS FROM SUBDIVISION AND PLATTING ACT

	1/27	INTRODUCED		
	1/27	REFERRED TO LOCAL GOVERNMENT		
	2/07	HEARING		
	2/10	COMMITTEE REPORT--BILL PASSED		
	2/14	2ND READING PASSED	47	0
	2/16	3RD READING PASSED	48	0
		TRANSMITTED TO HOUSE		
	2/21	REFERRED TO NATURAL RESOURCES		
	3/13	HEARING		
	3/16	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
	3/28	2ND READING CONCURRED AS AMENDED	93	1
	3/29	3RD READING CONCURRED	97	0
		RETURNED TO SENATE WITH AMENDMENTS		
	4/04	2ND READING AMENDMENTS CONCURRED	49	0
	4/06	3RD READING AMENDMENTS CONCURRED	49	0
	4/11	SIGNED BY PRESIDENT		

4/17 SIGNED BY SPEAKER
4/17 TRANSMITTED TO GOVERNOR
4/18 SIGNED BY GOVERNOR
CHAPTER NUMBER 569 EFFECTIVE DATE: 10/01/89

SB 262 INTRODUCED BY TVEIT, ET AL.
CLARIFY THAT A TEACHER'S TENURE IS TERMINATED WHEN SERVICES TERMINATED

1/27 INTRODUCED
1/27 REFERRED TO EDUCATION & CULTURAL RESOURCES
2/10 HEARING
DIED IN COMMITTEE

SB 263 INTRODUCED BY HOFMAN, S., ET AL.
PROHIBIT CERTAIN SEXUAL CONDUCT IN PREMISES LICENSED TO SELL ALCOHOL

1/27 INTRODUCED
1/27 REFERRED TO BUSINESS & INDUSTRY
1/28 REREFERRED TO JUDICIARY
2/09 HEARING
2/15 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/17 2ND READING PASSED 45 4
2/20 3RD READING PASSED 43 7

TRANSMITTED TO HOUSE
2/21 REFERRED TO JUDICIARY
3/21 HEARING
3/23 TABLED IN COMMITTEE

SB 264 INTRODUCED BY BENGTSON, ET AL.
REQUIRE LANDOWNER CONSENT OR COURT ORDER FOR WATER PERMIT/CHANGE APPROVAL

1/27 INTRODUCED
1/27 REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.
2/13 HEARING
DIED IN COMMITTEE

SB 265 INTRODUCED BY BENGTSON, ET AL.
ALLOW THE BOARD OF NATURAL RESOURCES TO REALLOCATE ANY WATER RESERVATION

1/27 INTRODUCED
1/27 REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.
2/13 HEARING
2/16 COMMITTEE REPORT--BILL PASSED
2/18 2ND READ DO PASS MOTION FAILED 20 22
2/18 MOTION FAILED TO INDEFINITELY POSTPONE 22 24
2/20 2ND READING PASSED 25 24
2/21 3RD READING FAILED 24 26

SB 266 INTRODUCED BY WALKER, ET AL.
PROHIBIT SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18

1/27 INTRODUCED
1/27 REFERRED TO BUSINESS & INDUSTRY
1/28 REREFERRED TO JUDICIARY

SENATE BILL NO. 261

INTRODUCED BY BISHOP, RAMIREZ

IN THE SENATE

JANUARY 27, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
FEBRUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 11, 1989	PRINTING REPORT.
FEBRUARY 14, 1989	SECOND READING, DO PASS.
FEBRUARY 15, 1989	ENGROSSING REPORT.
FEBRUARY 16, 1989	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 20, 1989	FIRST READING.
MARCH 16, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 27, 1989	PASSED CONSIDERATION FOR THE DAY.
MARCH 28, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 97; NOES, 0.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1989	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 6, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

INTRODUCED BY Senate BILL NO. 261
Bishop Ramirez

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM THE MONTANA SUBDIVISION AND PLATTING ACT THE RELOCATION OF A COMMON BOUNDARY LINE BETWEEN A LOT WITHIN A PLATTED SUBDIVISION AND LAND ADJOINING THE PLATTED SUBDIVISION; AND AMENDING SECTION 76-3-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-207, MCA, is amended to read:

"**76-3-207. Subdivisions exempted from review but subject to survey requirements -- exceptions.** (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions of land are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions of land not amounting to subdivisions:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a gift or sale to any member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by sale or agreement to buy and sell where the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;

(d) a single division of a parcel outside of platted subdivisions when the transaction is an occasional sale;

(e) for five or fewer lots within a platted subdivision, relocation of common boundaries and the aggregation of lots~~.~~; and

(f) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, any division of lots which results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must be filed with the county clerk and recorder;

(b) any change in use of the land exempted under subsection (1)(c) for anything other than agricultural purposes subjects the division to the provisions of this

INTRODUCED BILL
SB 261

chapter.

(3) No division of land may be made under this section unless the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent."

NEW SECTION. **Section 2.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel Harding, on February 7, 1989, at 1:00 p.m. in Room 405, Capitol

ROLL CALL

Members Present: Senator Ethel Harding, Vice Chairman Bruce D. Crippen, Senator R.J. "Dick" Pinsoneault, Senator Tom Beck, Senator Eleanor Vaughn, Senator Eleanor Vaughn, Senator H.W. "Swede" Hammond, Senator Mike Walker, Senator Gene Thayer, Senator Paul Boylan

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council; Dolores Harris, Secretary

Announcements/Discussion: Senator Harding introduced her son and his family, Mr. & Mrs. Greg Harding, Jamie, Tyler, Gen and Trenton. Greg took video pictures of the committee hearings for his children's history class.

HEARING ON SENATE BILL 261

Presentation and Opening Statement by Sponsor: Senator Al Bishop, Senate District 46, Billings, stated Senate Bill 261 is an act exempting from the Montana subdivision and platting act the relocation of a common boundary line between a lot within a platted subdivision and land adjoining the platted subdivision and amending Section 76-3-207, MCA. This is a duplicate of the bill presented last session. The changes to be made are outlined on Page 2, line 12, (f) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision.

List of Testifying Proponents and What Group they Represent:

Tom Hopgood, Montana Association of Realtors
Linda Stoll-Anderson, Lewis & Clark Co. Commissioner
Chicago Title Ins. Co. of Idaho
David L. Johnson, Billings, MT 59101

List of Testifying Opponents and What Group They Represent:

Kathy Macefield, City of Helena

Testimony:

Tom Hopgood stated that the realtors are in support of SB 261.

Senator Bishop gave out written testimony from David L. Johnson, a Billings resident, who supports this bill. See exhibit 2.

Senator Bishop presented written testimony from Steve Edwards, Title Officer of Chicago Title Insurance Company of Idaho. See exhibit 1. His testimony states SB 261 would not create any problems for them.

Kathy Maysfield asked what would happen to special improvement districts if this bill became law? Senator Bishop stated that nothing different would happen. You can't change the SID by re-plating.

Questions From Committee Members: Senator Vaughn asked if you change the platted subdivision who is responsible for the fees on the land?

Senator Harding stated that in some SIDs the fees are on the lots and some are on square footage, depending upon how the district is set up. An owner can ask to be added to an SID.

Closing by Sponsor: Senator Bishop closed.

DISPOSITION OF SENATE BILL 261

Discussion: Senator Harding asked if the committee would like to hold this bill until Thursday so that questions regarding SIDs, the rules for square footage could be reviewed. Why was the bill defeated in 1987? Senator Hammond stated the fees go with the land. Senator Beck wants to review subdivisions and platting.

Amendments and Votes: None

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date Feb 7, 1989

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 1
DATE 2-7-1989
BILL NO. SB 261

Chicago Title Insurance Company of Idaho
490 N. 31 St., Suite 130
P.O. Box 1377
Billings, Montana 59103
(406) 245-3064

February 3, 1989

Senator Al Bishop
Capitol Building
Helena, MT 59601

Re: Senate Bill 261

Dear Senator Bishop:

Section 76-3-207(1), MCA, provides, in subparagraph (a), that a division outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties is not considered to be a division which is a subdivision. Further, subparagraph (e) provides that relocation of common boundary lines between lots in a platted subdivision would also be exempt from subdivision requirements.

It is my understanding that SB 261 would add an additional exemption: if there is a relocation of a common boundary line between a platted and an unplatted lot. I am told that when this bill was before the 1987 Legislature, that someone objected to it on the basis that the relocation of a boundary line between a platted and an unplatted lot would not show up in the records.

I am employed as a real estate title examiner. In any situation where the size of a tract of land, whether platted or unplatted, is either expanded or decreased, that will appear as a matter of public record. When we perform our title examinations, we start with the inception of title, and thus our exam would always include the matters pertaining to the boundary change.

That would be the case whether there is a relocation of a boundary line between platted lots, unplatted lots, or between an unplatted lot and a platted lot. There would be absolutely no difference in our examination approach, and the public records would reveal the same information. SB 261 would not create any problems for us.

Very truly yours,

STEVE EDWARDS
Title Officer

256-2785

500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
BILLINGS, MONTANA 59101

January 21, 1987

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 2
DATE Feb 7, 1989
BILL NO. SB 261

Senator Al Bishop
Montana State Senate
P. O. Box 9
Capitol Station
Helena, Montana 59620

Re: Senate Bill No. ~~135~~ 261

Dear Senator Bishop:

I appreciate your notifying me this morning that Senate Bill No. 135, which you introduced at my request, will be the subject of a hearing before the Local Government Committee, tomorrow at 1:00 p.m. Since I will be unable to be present at the meeting, I am hopeful that my comments in this letter can be taken into account as my written testimony for the benefit of the committee members.

Under the Montana Subdivision and Platting Act (Section 76-3-101 et. seq.), the general rule is that any division from an existing parcel of land is considered a subdivision, and necessitates a full subdivision review process.

Part 2 of Title 76, Chapter 3 then contains a number of miscellaneous exemptions which are not considered to constitute subdivisions. In each instance, the exemptions do not apply if the method of disposition is adopted for the purpose of evading the general subdivision requirements.

Prominent among the exceptions are those set out in §76-3-207, which enumerates a number of subdivisions which are exempted from the subdivision review process, but not from survey requirements. Among those are exemptions provided when there is to be a mere change in a boundary line between adjoining parcels:

(a) Change of Boundary Lines Between Lands Outside a Platted Subdivision. The first exemption is set out in §76-3-207(1)(a), and states that if there is to be a boundary line change between two parcels that are outside of platted subdivisions, the same is considered to be an exempted subdivision (again, unless done for the purpose of evading the act), and is subject only to the survey requirement.

(b) Boundary Line Changes Between Subdivided Lots. In addition, subsection (e) considers a relocation of common

boundary lines within a platted subdivision, if applicable to five or fewer lots, to also be an exempted subdivision.

Thus, we have exemptions for a change in boundary lines between adjoining subdivided lots, and also a change in the boundary line between adjoining unplatted lots. If the statute is read literally, there is no similar exemption if a boundary line is being changed in a situation where there is a "mix" of the two lots, in the case of two parcels adjoining each other where one is a platted lot, and the other is an unplatted lot.

Though I feel that the statute can be interpreted to mix the two exemptions so as to allow the exemption for a platted-unplatted situation, that is not the interpretation which has been furnished to me by the City of Billings or the Yellowstone City-County Planning Board. My dwelling house is located on a platted lot. My immediate neighbor to the south is the owner of an unplatted lot. Several years ago I agreed to convey to my neighbor the south 15 feet of my lot so that my neighbor would have a larger lot and I would have a smaller lot. We engaged a surveyor to draw a plat so that I could legally describe in a deed the 15-foot strip I was transferring to my neighbor. When submitted for review, the governmental officials said they would not accept the mere filing of the certificate of survey, but instead would process it as a "minor plat", which would require park dedication and street dedication.

Although I disagree with the position of the City, I am unable to complete the project without going through the minor plat review process.

I am unaware of any specific legislative intent providing for an exemption which would distinguish between the moving of a boundary line between a platted and unplatted lot, while at the same time when the adjoining lots are either two platted lots or two unplatted lots. For that reason, we are proposing enactment of an additional exemption under §76-3-201, which would permit the relocation of a common boundary line where the adjoining parcels ~~include~~ consist of an unplatted lot and a platted lot.

I would be happy to furnish any additional information which the Committee may desire.

Sincerely yours,

DAVID L. JOHNSON

DLJ:bm

DATE February 7, 198[illegible]

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppo
Tom Hopgood	Mont. Assoc Realtors	261	✓	
Chris Johansen	G.F. Senior Citizens Corp	274	✓	
[illegible] Dortmid	G.F. Senior Citizens Corp	274	✓	
Tony Nelson	G.F. Senior Citizens Corp.	274	✓	
Henry E. Lohn.	Mont State Vol Firefighters Assn	271	–	
Kyle Nagel	Mt. St. Vol. Firefighters Assn	271	✓	
Sen Richard E. Manning	Sponsor	271	✓	
Kathy Macefield	City of Helena	261		
ANN MARY DUSSAULT	MACo	274		X
ALEC Hansen	MLCT	274	~~✓~~	✓
Tom Hopgood	Mont. Assoc. Realtors	274		–
Jim Ron Carlson	City of Billings	274		✓

(Please leave prepared statement with Secretary)

Senator Thayer asked Representative Hanson to see if the $25,000 amount would solve the other problems, also. She said she would. She will bring this information to Chairman Harding. Representative Hanson thanked the committee for all their time and concern.

Senator Beck suggested the committee put a sunset clause in this bill. Representative Hanson agreed with the sunset clause.

EXECUTIVE ACTION ON SENATE BILL 261

Discussion: Senator Vaughn stated she found that a number of counties are already doing this, just making reference to the original plat.

Recommendation and Vote: Senator Thayer made a MOTION that we DO PASS SB 261. The VOTE was UNANIMOUS in FAVOR of passing SB 261.

EXECUTIVE ACTION ON SENATE BILL 271

Discussion: Connie Erickson stated her research showed that a lot of the funds that went into these firemen retirement funds came from sources other than taxes. Each member pays monthly dues, insurance, interest that the fund earns, bequests. The tax levy only kicks into effect, if the fund drops below a certain percentage. She looked at records from 20 towns that use this and found that only 4 had made changes in that mill levy. The other towns had remained constant for 3 years. And of the 4 that did change 3 raised slightly, and 1 dropped to 1 mill. It increases what is in the fund, not the mills.

Senator Beck asked if the fund amounts to more than 3% of the taxable valuation then no taxes are levied. If the fund drops below 3% a town can levy millage to bring the fund up. If the total cash is less than the 1986 level they can levy to bring it up to that level as dictated by I 105.

Senator Walker stated the fund is controlled by the taxable valuation. A lot of counties are loosing taxable valuation. This is an effort to keep the funds at current levels. Senator Thayer stated this would give flexibility up to the 1986 level.

Recommendation and Vote: Senator Walker MOVED that we DO PASS SB 271. The VOTE was UNANIMOUS in FAVOR of

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date 2-9-89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration SB 261 (first reading copy -- white), respectfully report that SB 261 do pass.

DO PASS

Signed: Ethel H. Harding

Ethel H. Harding, Chairman

scrsb261.210

REP. COHEN asked Mr. Lightle if his group was interested in supporting curbside recycling. MR. LIGHTLE said yes, and that their role would be in education about the benefits to society of recycling rather than in the support of legislation.

REP. COHEN asked if Mr. Lightle could support the amendments offered by Common Cause to make the resolution more inclusive, and MR. LIGHTLE said he had no objection. He said they were in the process of organizing a grass roots network in order to work together.

REP. RANEY asked if the resolution could be amended to be sent to County Commissioners, and local chief executives. SEN. MEYER said that would be fine.

Closing by Sponsor: SEN. MEYER closed.

DISPOSITION OF SJR 13

Motion: REP. MOORE moved the bill BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: REP. MOORE moved the amendment striking any reference to a particular organization. REP. GILBERT said he opposed the spirit in which the amendments were offered, and said they were offered by individuals who got defeated at the polls over a bottle bill, and did not want to see anyone's name mentioned who was on the winning side.

REP. HARPER said he needed more time to add some other language to the bill to more clearly amend the bill.

REP. RANEY asked Rep. Harper what he had on his mind with regards to SJR 13. REP. HARPER said he wanted to get people thinking about the necessity of curbside separation. REP. GILBERT said he shared his concerns. He said landfills and recycling studies would be EQC's major projects during the biennium. REP. RANEY said executive action would be continued on the bill at a later committee meeting.

Recommendation and Vote: REP. MOORE WITHDREW her motions.

HEARING ON SB 261

Presentation and Opening Statement by Sponsor:

SEN. AL BISHOP, Senate District 46, said the bill addressed the Subdivision and Platting Act, which required people who

wanted to divide property under certain circumstances to comply with the law. This could include streets, alleys, and park requirements. He said there were exemptions, one of which was divisions of land made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties, divisions for gift and sale to a family member, and several others. He said the exemption he was interested in was the one for five or fewer lots within a platted subdivision, relocation of the common boundaries and the aggregation of lots. He said the bill would give another exemption, the movement of common boundary lines between a platted and an unplatted piece of property. He said there was no real reason this was not an exemption, and suggested it was an oversight in the law. This could not be done for the purpose of evading the act.

SEN. BISHOP said there had been two objections. One was how an individual would know from looking at a plat that this had been done. He said the Clerk and Recorder would attach a copy of the certificate of survey to the original plat.

SEN. BISHOP said a concern had been expressed regarding the presence of SID's or RSID's on part of the property. He said the certificate of survey would determine the percentage owed. He encouraged the committee not to look for bogeymen in the bill and urged the committee's support.

Testifying Proponents and Who They Represent:

None

Proponent Testimony:

None

Testifying Opponents and Who They Represent:

Kathy Macefield, City of Helena, and the Montana Association of Planners
Chris Kaufmann, Montana Environmental Information Center

Opponent Testimony:

KATHY MACEFIELD, Planning Director for the City of Helena, testified as set forth in EXHIBIT 3. She also submitted the testimony of Robert Rasmussen of the Lewis and Clark County Planning Department, which he presented to the Senate Local Government Committee (EXHIBIT 4).

CHRIS KAUFMANN testified that she had the same concerns expressed by the previous opponent, and felt the exemption would weaken the Subdivision and Platting Act. She expressed hope that the committee would amend the bill as suggested by Ms Macefield.

Questions From Committee Members:

REP. ROTH asked the sponsor if the intent was to allow the transfer of the boundary between two lots of platted and unplatted subdivisions. SEN. BISHOP said yes, if there was a valid reason.

REP. COHEN asked the sponsor to comment on Ms Macefield's amendments. SEN. BISHOP reviewed them and said he would rather kill the bill than put the amendments on.

Closing by Sponsor:

SEN. BISHOP continued, stating that the objections raised by the opponents with regards to covenants, maintenance districts, and platted SID's could be made to the exemptions that already existed in the law. He said covenants could not be removed, and maintenance districts and SID's would continue as liens on the property.

HEARING ON SB 447

Presentation and Opening Statement by Sponsor:

SEN. BILL YELLOWTAIL, Senate District 50, Wyola, said he was presenting two water plan bills. He said the State Water Plan carried with it suggestions for legislation. He said SB 447 dealt with the priority date of water reservations and accomplished two things. It established the priority date for water reservations at the date when a qualified applicant (a political subdivision) submitted a notice of its intent to apply. It standardized those priority dates at that date, after which the applicant had one year to submit applications and receive the same priority date. At the present time, the priority date coincided with the date of final Board of Natural Resources approval. The problem had arisen that during the time period of submission of application and final approval, water permits could be filed and granted, resulting in a tangle of priority dates.

SEN. YELLOWTAIL said the bill would allow for the reservations to be subordinated to permits to the extent that the permits did not interfere with the reservations. He said this scheme was in effect on the Missouri, and the approach seemed to be workable. He said this provision would apply to basins not yet allocated, such as the Lower Clark Fork, Flathead and Columbia Basins.

Testifying Proponents and Who They Represent:

Gary Fritz, Department of Natural Resources and Conservation
Stan Bradshaw, Montana Council, Trout Unlimited

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3-13-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Tom Huddleston
Rose Leavitt
Blake J. Wordal

William J. Verwolf
City Manager

EXHIBIT 3
DATE 3-13-89
HB SB261

City-County
Administration Building
316 North Park
Helena, MT 59623

Phone: 406/442-9920

City of Helena

March 13, 1989

Chairman Bob Raney
House Natural Resources Committee
State Capitol Building
Helena, Montana

Dear Chairman Raney and Committee Members:

I am the Planning Director for the City of Helena, and am presenting testimony for both the City of Helena and for the Montana Association of Planners (MAP).

The law does not presently address boundary relocations between platted subdivisions and unplatted land. As a result, these relocations are presently reviewed as subdivisions. Subdivision review may not be necessary for this type of relocation. However, SB 261 would allow boundary relocations without any type of review.

When a subdivision is reviewed and approved by a governing body, the assumption is that certain type of development will occur on that property. It is as if that review and approval is a contract between the governing body, the developer, and the general public (including the property owners of land within the subdivision). The governing body should have the opportunity to consider the original contract and the integrity of the subdivision. If the boundary relocation would create adverse effects, it should not be permitted. Essentially, such a boundary relocation between a platted subdivision and unplatted land should be approved by the governing body.

Without any review or the approval of the governing body, several detrimental events could occur with this type of boundary relocation:

1) Land located within a platted subdivision may serve as collateral for a Special Improvement District (SID) or a Rural Improvement District (RID). Once an improvement district boundary is determined, that exterior boundary cannot be adjusted. Without any review, removing this land from a platted subdivision could create adminstrative future problems when determining the assessments of the improvement district.

2) Property located inside a platted subdivision may be subject to covenants or assessments by a Homeowners' Association. If property could be removed from the subdivision without any consideration, adjacent property owners would no longer receive the same protection they originally had when all of the subdivision properties were covered by the covenants. The removal of property may also affect the Homeowners' Association assessments on the other properties.

DATE 3-13-89
HB SB261

3) If the governing body has the opportunity to approve this particular boundary relocation, the maintenance assessments could be respread equitably. In addition, the lot areas and lot widths could be checked to assure that the relocated boundaries to not create properties that violate zoning.

4) Lastly, this boundary relocation should be shown as an amended plat and not as a certificate of survey. After a boundary relocation has occurred, amended plats provide a better record for the general public than a certificate of survey.

To summarize, the City of Helena and the Montana Association of Planners believe that the governing body should have the opportunity to approve a boundary relocation between a platted subdivision and unplatted land, and that such a relocation should be shown on an amended plat.

As proposed, these boundary relocations have been included under 76-3-207, "Subdivisions exempted from review but subject to survey requirements -- exceptions. (1), MCA. SB 261 could be amended so that "divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision must be approved by the governing body, and an amended plat must be filed with with the county clerk and recorder". Such an amendment would then be included under 76-3-207 (2), MCA.

If SB 261 cannot be adequately amended to address these concerns, I would encourage the House Natural Resources Committee to not pass SB 261 as it is presently written.

Sincerely,

Kathy Macefield

Kathy Macefield

EXHIBIT 4
DATE 3-13-89
HB SB261

LEWIS AND CLARK COUNTY

Planning Department

City-County Building 316 North Park P.O. Box 1725 Helena, Montana 59624 Phone 406/443-1010

February 9, 1989
FILE: 1506 Harding.ltr

Senator Ethel Harding
Chairperson, Senate Local Government Committee
Montana Senate
State Capitol
Helena, MT 59620

Subject: SB-261

Dear Senator Harding:

I was unable to attend the Committee hearing on SB-261 last Tuesday, (2-7-89). However, I do have several comments on the proposed legislation.

First of all, I support the idea of addressing the relocation of boundaries between platted and unplatted lands; the present statutes do not specifically address such circumstances. However, such boundary changes should not be exempt from any review and certain filing procedures should be followed.

Several questions arise when relocating boundaries between platted and unplatted areas. Is the acquired or removed property considered part of the subdivision or not? Do the rights and obligations of the subdivision apply to the acquired or removed property? Do zoning or covenants apply to the acquired or removed property and would the proposed change be in compliance with such regulations? What services and assessments apply to the acquired or removed property?

A summary review amended plat process would provide a format for addressing these (and other) pertinent questions. In most areas, such boundary relocations would not be reviewed as subdivisions and hearings would not be necessary. However, a summary review would provide a simple and appropriate mechanism to address the circumstances of the proposed boundary relocation. The filing of an amended plat would provide for clear record keeping, thereby

EXHIBIT 4
DATE 3-13-89
HB SB261

assisting title companies, state and county agencies, and the public.

Please consider these points in your deliberations on HB-261. Thank you.

Sincerely,

Robert Rasmussen

Robert Rasmussen, Director
LEWIS AND CLARK COUNTY PLANNING DEPARTMENT

cc: Committee Members

VISITORS' REGISTER

Natural Resource COMMITTEE

BILL NO. SB 261 DATE 3-13-89

SPONSOR Sen Bishop

NAME (please print)	~~RESIDENCE~~ Representing	SUPPORT	OPPOSE
Kathy Macefield	City of Helena + MT Asso. of Planners		X
Chris Kaufmann	MEIC		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

REP. CLARK asked if the sponsor would accept a voluntary donation check-off instead of the automatic $.50. REP. HARPER declined, saying that the fund would help reverse loss of fishing habitat.

Recommendation and Vote: REP. HARPER moved the HB 754 DO PASS AS AMENDED. The motion CARRIED, with Rep. Giacometto, Rep. Clark, Rep. Gilbert, and Rep. Smith voting no.

DISPOSITION OF SB 223

Hearing 3/03/89

Motion: REP. ADDY moved to TABLE the bill.

Discussion: REP. ADDY addressed the committee, stating that if anyone wanted to debate the motion, he would withdraw it. REP. GIACOMETTO stated that it was non-debatable.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED on a roll call vote, 9 - 7.

DISPOSITION OF SB 261

Hearing 3/13/89

Motion: REP. GIACOMETTO moved the bill BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: REP. COHEN moved an amendment which added the language "Any restrictions or requirements placed on a platted lot will continue to apply". He said the language came from the Association of Planners and addressed their major concern regarding the bill.

REP. O'KEEFE said he would agree with the amendment but reminded the committee that Sen. Bishop was adamant in stating that he did not want this bill amended. REP. O'KEEFE asked for a clarification of the amendment. REP. COHEN said the concern was expressed in the testimony of Kathy Macefield, the Planner for the City of Helena. He quoted that testimony, which said, among other things, that the boundary relocation should be shown as an amended plat, and not as a certificate of survey.

REP. RANEY asked Mr. Zackheim to read the amendment. MR. ZACKHEIM said it would read "Any restrictions or requirements on the platted lot continue to apply". REP. O'KEEFE said he was told by the planners here and in Deer

Lodge County that the only way it could be assured that the restrictions and requirements would continue to apply was if an amended plat was filed and reviewed by the governing body. He said this change was suggested by Kathy Macefield, but was rejected by the sponsor.

REP. HARPER said that the property would still be platted because an amended plat had not been submitted. With the submission of a certificate of survey, restrictions would have to still apply.

The motion on the amendment CARRIED, with Rep. Giacometto, Rep. Raney and Rep. Smith voting no.

Recommendation and Vote: REP. COHEN moved the SB 261 BE CONCURRED IN AS AMENDED and the motion CARRIED, with Rep. Clark and O'Keefe voting no.

DISPOSITION OF SB 390

Hearing 3/10/89

REP. RANEY asked Don Belcher, a retired rancher from Roundup, to speak to the committee. REP. RANEY stated that it was customary that the committee not hear any further testimony, but asked permission of the committee to hear Mr. Belcher, who had driven up from Roundup to address this issue. There was no objection from the committee.

DON BELCHER apologized to the Committee on behalf of those proponents who were not at the hearing, stating that most of them were ranchers busy with calving and feeding. He said the bill referred to a test pumping for 7 days that would be closely monitored by the Department of Natural Resources (DNRC) and the Bureau of Mines and Geology (MBMG) to ensure that the water level was not lowered in any creeks or wells. Should any adverse impact happen from the pumping, the action would cease immediately. He said the mines were in existence and actively mined for 40 years, during which time the wells and creeks still ran. MR. BELCHER said the proponents thought there was 13,000 acre feet of available water that could be used for supplemental irrigation and for supplemental water supply for the towns of Melstone and Musselshell.

Regarding the problem of possible PCB contamination in the mine water, MR. BELCHER said the city of Roundup derived some of its water from the mine, and had it tested by Energy Laboratories of Billings. No PCB's were found. He added that there was no possibility for off site storage due to the lack of available water from the Musselshell River. He said there was a need for additional water for irrigation

STANDING COMMITTEE REPORT

March 16, 1989

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 261 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Bob Raney, Chairman

[REP. RAMIREZ WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 2, line 15.
Following: "subdivision."
Insert: "Any restrictions or requirements on the platted lot continue to apply."

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3-15-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas			✓
Rep. Mary McDonough	✓		
Rep. Janet Moore			✓
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah			✓
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		